IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.17441 OF 2001
DATE OF DECISION: 04-03-2008

Om Parkash and another

.....PETITIONERS

VERSUS

State of Haryana and others

.....RESPONDENTS

CORAM:- **HON'BLE MR.JUSTICE HEMANT GUPTA**
HON'BLE MR.JUSTICE MOHINDER PAL

PRESENT: Mr.Manoj Chahal, Advocate
for the petitioners.

Ms.Mamta Singhal, Assistant Advocate General, Haryana
for respondents No.1 and 3.

Mr.J.S.Cooner, Advocate
for respondent No.2.

HEMANT GUPTA, J.

The challenge in the present writ petition is to the order dated 23-10-2001 whereby the petitioners were repatriated to their parent department i.e. Director Local Bodies Haryana. Such action was taken on account of having qualified matriculation examination from Hindi Sahitya Samelan Allahabad, which is not recognized by the Government of Haryana and thus the petitioners were found not entitled to be promoted as Clerk.

Such action has been taken by the respondents in

pursuance of the directions of this Court in **Ram Bhagat Sharma** Vs. **State of Haryana** 1997(4) RSJ 134 wherein the Government of Haryana was directed to prevent future recruitment of persons possessing qualifications awarded by Hindi Sahitya Sammelan, Allahabad and by Hindi Sahitya Sammelan, Prayag, Allahabad. However, it was also ordered that those who have completed 3 years service should be given an opportunity to acquire the requisite qualification within a stipulated time. Only in the event of their failure to acquire qualification, then appropriate order be passed to dispense with the services of such persons. The relevant extract reads as under:

> *"With a view to protect the interest of the students community, we direct the Government of Haryana to take steps to prevent future recruitment of persons possessing qualifications awarded by Hindi Sahitya Sammelan, Allahabad, and/or Hindi Sahitya Sammelan, Prayag, Allahabad, and at the same time take appropriate measures to dispense with the services of unqualified teachers. For this purpose, the Government of Haryana is directed to issue written instructions to all concerned that in future no appointment be given to the persons possessing qualifications by the institutions referred to here-in-above. We also direct the Government of Haryana to take steps for terminating the services of all such teachers who have secured employment on the basis of degrees/diplomas/certificates issued by Hindi Sahitya Sammelan, Allahabad and/or Hindi Sahitya Sammelan, Prayag, Allahabad. However, those who have completed three years service should be given an opportunity to acquire the requisite qualification within a stipulated time. In case they fail to acquire such qualification, then appropriate order be passed to dispense with the services of such persons."*

It is the case of the petitioners that during the pendency of the writ petition, they have qualified matriculation examination from National Open School, New Delhi. Such course is recognized as equivalent to Matric in Haryana and, therefore, the petitioners are Matriculate and thus required to be deemed to be promoted on the post of Clerk in terms of the directions referred to above. The petitioners attached the certificate in respect of petitioner No.1 as Annexure A-1 dated 15-12-2003 and in respect of petitioner No.2 Annexure A2 dated 15-01-2005.

In reply to the said application, a circular dated 13-05-2004 (Annexure R-2/1) has been appended wherein Matric from National Open School is recognized as equivalent to Matric in Haryana, subject to passing of all the subjects as required to be passed by Haryana School Education Board. Learned counsel for the respondents has pointed out that from the circular, it is apparent that a candidate is required to appear in 6 subjects though qualifying in 5 subjects is sufficient to have passed Matriculation examination equivalent to Haryana School Education Board.

However, we do not find any merit in the said contention raised on the basis of aforesaid circular. It is not disputed that in Haryana School Education Board, if a candidate qualifies in 5 subjects, he is deemed to be duly qualified Matriculate. Both the petitioners have qualified 5 subjects which are also required to be passed in Haryana School Education Board. In fact, the circular dated 13-05-2004 deals with the additional subjects of Math, Social Studies, Science and one optional subject but the condition is that the applicant must have passed 3 subjects. The petitioners have qualified in 3 subjects and thus satisfies the requirement contemplated

in circular dated 13-05-2004 as well.

In view of the above, we are of the opinion that Annexure P4 dated 23-10-2001 cannot be sustained in law. Consequently, the same is set aside. The writ petition is allowed as prayed for.

(HEMANT GUPTA)
JUDGE

(MOHINDER PAL)
JUDGE

March 04, 2008
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